



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10**

1200 Sixth Avenue, Suite 900
Seattle, Washington 98101-3140

OCT 18 2016

OFFICE OF
COMPLIANCE AND ENFORCEMENT

Reply to: OCE-101

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Notice of Violation

Ms. Anne Hayes
President, Shelter Bay Community, Inc.
1000 Shoshone Drive
La Conner, Washington 98257

Re: Shelter Bay Community WWTF
NPDES Permit Number WA-002442-2

Dear Ms. Hayes:

On June 18, 2012, the U.S. Environmental Protection Agency (EPA) issued a National Pollutant Discharge Elimination System (NPDES) permit to the Swinomish Reservation Sewer District ("Operator") for its Shelter Bay Community wastewater treatment facility ("Facility"), NPDES Permit Number WA-002442-2 ("Permit"). The Permit became effective on July 1, 2012, and expires on June 30, 2017. The purpose of this letter is to notify you of violations EPA discovered upon review of administrative files, including the Discharge Monitoring Reports (DMRs) submitted by the Facility, and in response to the inspection of the Facility conducted by EPA on June 29, 2015. The purpose of the inspection was to determine the Facility's compliance with the requirements of the Clean Water Act (CWA) and the NPDES Permit. I would like to express my appreciation for your staff's time and cooperation during the inspection.

ADMINISTRATIVE FILE REVIEW

1. EPA reviewed DMRs from July 2011 through August 2016 and identified effluent limitation exceedances that constitute nine violations of the CWA, 33 U.S.C. § 1251 *et seq.* A list of violations is enclosed (Enclosure A).
2. Part III.B.1 of the Permit states, in part, "The permittee must summarize monitoring results each month on the Discharge Monitoring Report (DMR) form (EPA No. 3320-1) or equivalent. The permittee must submit reports monthly, postmarked by the 10th day of the following month."

Upon review of administrative files from July 2011 through August 2016, EPA found that the Facility was late in submitting two DMRs. The DMRs for the November 2011 and June 2013 reporting periods were late. EPA received the two late DMRs on September 3, 2013. Failure to submit the DMRs on time are violations of Part III.B.1 of the Permit.

3. Part II.A of the Permit states, in part, "The permittee must provide written notice to EPA and the Swinomish Indian Tribal Community (SITC) that an operations and maintenance plan for the wastewater treatment facility has been developed and implemented by December 27, 2012, which is within 180 days of the effective date of this permit. The plan shall be retained on site and made available on request to EPA and SITC."

Upon review of administrative files from July 2011 through August 2016, EPA found that the Facility was late in submitting written notification that the Operations & Maintenance Plan had been completed and implemented. The notification was due January 1, 2013 but EPA did not receive it until February 1, 2013. Failure to submit the Operations & Maintenance Plan by the due date is a violation of Part II.A of the Permit.

4. Part II.D.2 of the Permit states, in part, "The permittee must submit written notice to EPA and SITC that the plan (Emergency Response and Public Notification Plan) has been developed and implemented by December 27, 2012, which is within 180 days of the effective date of this permit."

Upon review of administrative files from July 2011 through August 2016, EPA found that the Facility was late in submitting written notice of the development and implementation of the Emergency Response and Public Notification Plan (ERPMP). The notification was due January 1, 2013, but EPA did not receive it until April 2, 2013. Failure to submit the ERPMP by the due date is a violation of Part II.D.2 of the Permit.

JUNE 2015 INSPECTION

Area of Concern

1. Part I.B, Table 1, Footnote (d) of the Permit specifies the method for calculating percent removal as the $\frac{((\text{monthly average influent concentration} - \text{monthly average effluent concentration}) / \text{monthly average influent concentration}) \times 100}{100}$.

At the time of the inspection, the inspector reviewed DMRs, non-compliance reports, lab reports, chain-of-custody documents, and calculation sheets. During the review, the inspector noted that the Facility was using a method for calculating percent removal that the Permit does not describe. This could lead to inaccurate results and reporting.

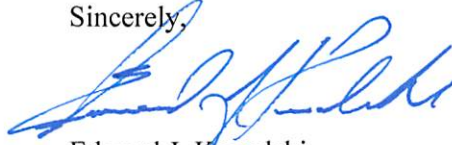
2. Part V.E.4 of the Permit states that any person signing a document under this Part must make the following certification, "I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

During the review of the above-mentioned documents, the inspector noted that the Facility recorded data on the September 2014 DMR that was inconsistent with data the Facility recorded in lab notes on-file. It is important to ensure that data reported to EPA is accurate. In the inspection report, the inspector noted that the Facility representative said the Facility would retrain employees on discharge monitoring protocol to avoid this issue in the future.

Although our goal is to ensure NPDES facilities comply fully with their permits, the ultimate responsibility rests with the permittee. As such, I want to strongly encourage you to continue your efforts to maintain full knowledge of the Permit requirements, and other appropriate statutes, and to respond appropriately to ensure compliance. Notwithstanding your response to this letter, EPA retains all rights to pursue enforcement actions to address these and any other violations.

I have enclosed a copy of the inspection report (Enclosure B). If you have any questions concerning this matter, please call Raymond Andrews of my staff at (206) 553-4252.

Sincerely,



Edward J. Kowalski
Director

Enclosures

cc w/encl: Mr. Bob Connolly
Maintenance Supervisor, Swinomish Reservation Sewer District

cc w/o encl: Mr. David Franklin
Community Manager, South Bay Community, Inc.